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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

YOUNG LIVING ESSENTIAL OILS, L.C.,

Plaintiff,

v.

MADISON VINING, TYLER VINING,
VINING ESSENTIALS LLC, MONIQUE
MCLEAN, JEREMIAH MCLEAN,
MCLEAN ESSENTIALS LLC, and
CHELSEA HUMPHREYS,

Defendants.

**EXPERT DECLARATION OF
PATRICK KILBOURNE**

Case No: 2:21-cv-00510-NJP

Judge Jill N. Parrish

I, Patrick Kilbourne, declare as follows:

1. I understand that on August 18, 2021, Young Living Essential Oils, L.C. (“Plaintiff”) filed a Complaint against Tyler & Madison Vining, Vining Essentials LLC, Jeremiah & Monique McLean, McLean Essentials LLC, and Chelsea Humphreys (collectively “Defendants”) for breach of contract.

2. I understand Plaintiff now seek an order “requiring Defendants to terminate their relationship with Modere,” among other things.

3. I have been retained as an expert by James Dodge Russell & Stephens, P.C. to offer opinions on accounting and damages issues in this proceeding.

4. My work on this matter is preliminary and ongoing. I understand that no discovery has occurred, and that information generated in discovery will be made available to me in the future.

5. I am a Managing Director at Berkeley Research Group, LLC (“BRG”). BRG is a leading global expert services and consulting firm with over 1,200 experts and professionals. BRG experts and consultants specialize in the provision of sophisticated economic, financial, and analytical advice across a wide range of disciplines, including accounting, antitrust and competition policy, complex damages, intellectual property, finance, health care, valuation, and workforce issues. BRG advises clients in major industry sectors with compliance, business process improvement, and strategy consulting. We provide independent expert testimony, litigation and regulatory support, authoritative studies, strategic advice, and document and data analytics to major law firms, Fortune 500 corporations, government agencies, and regulatory bodies around the world.

6. I have 27 years of experience in public accounting and consulting and am a Certified Public Accountant (CPA), a Certified Management Accountant (CMA), a Certified Fraud Examiner (CFE), and a Chartered Global Management Accountant (CGMA). I am also Certified in Financial Forensics (CFF) and Accredited in Business Valuation (ABV) by the American Institute of Certified Public Accountants (AICPA).

7. I earned a Master of Business Administration (MBA) degree from the University of Pennsylvania's Wharton School of Business and Master of Accounting and Bachelor of Science degrees from Brigham Young University.

8. I have been retained as an expert and have testified in a variety of settings, including United States federal courts, United States state courts, international arbitrations, and domestic arbitrations. I have provided testimony on various matters, including lost profits, disgorged profits, reasonable royalties, economic damages, accounting, finance, internal cost accounting, valuation, and accounting investigations.

9. My curriculum vitae is attached to this declaration.

10. My analysis is based upon my experience, judgment, and my expertise in accounting, economics, finance, and the evaluation of damages. My rate for this engagement is \$590 per hour. My firm's fees are not contingent upon the outcome of this litigation.

11. On numerous occasions I have been engaged to calculate economic losses related to the breach of non-compete agreements, the breach of non-solicitation agreements, and the misappropriation of trade secrets in a variety of industries including, multi-level marketing, professional services, software services, banking, mortgage lending, insurance, technology, software, pharmaceutical, and construction.

12. MLM companies typically maintain the books, records, and data necessary to calculate lost profits related to the breach of non-compete agreements, the breach of non-solicitation agreements, and the misappropriation of trade secrets.

13. On many occasions, I have also reviewed the work of other damages experts who have calculated economic losses related to the breach of non-compete agreements, the breach of non-solicitation agreements, and the misappropriation of trade secrets.

14. I have never been involved in a matter in which I, or another damages expert, have asserted the inability to measure the economic loss related to such claims.

15. I anticipate that I will be asked to offer additional opinions on accounting and damages issues. This may include responding to damages quantification offered up by Plaintiffs' damages expert for this matter. Although each matter has its own unique set of facts and circumstances, it my expectation (based on my many years of experience, the alleged claims involved in this matter, and my expertise in damages analyses) that I will be able to reasonably quantify any estimates of damages as necessary for this matter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

EXECUTED this 31 day of August 2021, in Salt Lake City, Utah.

By:



Patrick Kilbourne